

SENATE BILL 1

C3

(PRE-FILED)

6lr0339
CF HB 11

By: **Senator Kagan**

Requested: May 28, 2015

Introduced and read first time: January 13, 2016

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – In Vitro Fertilization – Use of Spouse’s Sperm – Exception**

3 FOR the purpose of altering the circumstances under which certain insurers, nonprofit
4 health service plans, and health maintenance organizations must provide benefits
5 for certain expenses arising from in vitro fertilization procedures; providing a certain
6 exception to the required use of a spouse’s sperm to fertilize the oocytes of a patient
7 whose spouse is of the opposite sex; providing for the application of this Act; and
8 generally relating to health insurance coverage for in vitro fertilization procedures.

9 BY repealing and reenacting, with amendments,

10 Article – Insurance

11 Section 15–810

12 Annotated Code of Maryland

13 (2011 Replacement Volume and 2015 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Insurance**

17 15–810.

18 (a) This section applies to:

19 (1) insurers and nonprofit health service plans that provide hospital,
20 medical, or surgical benefits to individuals or groups on an expense-incurred basis under
21 health insurance policies that are issued or delivered in the State; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) health maintenance organizations that provide hospital, medical, or
2 surgical benefits to individuals or groups under contracts that are issued or delivered in
3 the State.

4 (b) An entity subject to this section that provides coverage for infertility benefits
5 other than in vitro fertilization may not require as a condition of that coverage, for a patient
6 who is married to an individual of the same sex:

7 (1) that the patient's spouse's sperm be used in the covered treatments or
8 procedures; or

9 (2) that the patient demonstrate infertility exclusively by means of a
10 history of unsuccessful heterosexual intercourse.

11 (c) (1) This subsection does not apply to insurers, nonprofit health service
12 plans, and health maintenance organizations that provide hospital, medical, or surgical
13 benefits under health insurance policies or contracts:

14 (i) that are issued or delivered to a small employer in the State; and

15 (ii) for which the Administration has determined that in vitro
16 fertilization procedures are not essential health benefits, as determined under § 31-116 of
17 this article.

18 (2) An entity subject to this section that provides pregnancy-related
19 benefits may not exclude benefits for all outpatient expenses arising from in vitro
20 fertilization procedures performed on a policyholder or subscriber or on the dependent
21 spouse of a policyholder or subscriber.

22 (3) The benefits under this subsection shall be provided:

23 (i) for insurers and nonprofit health service plans, to the same
24 extent as the benefits provided for other pregnancy-related procedures; and

25 (ii) for health maintenance organizations, to the same extent as the
26 benefits provided for other infertility services.

27 (d) Subsection (c) of this section applies if:

28 (1) the patient is the policyholder or subscriber or a covered dependent of
29 the policyholder or subscriber;

30 (2) for a patient whose spouse is of the opposite sex, the patient's oocytes
31 are fertilized with the patient's spouse's sperm, **UNLESS:**

32 **(I) THE PATIENT'S SPOUSE IS UNABLE TO PRODUCE AND**
33 **DELIVER SPERM; AND**

1 **(II) THE INABILITY TO PRODUCE AND DELIVER SPERM DOES**
2 **NOT RESULT FROM:**

3 **1. A VASECTOMY; OR**

4 **2. ANOTHER METHOD OF VOLUNTARY STERILIZATION;**

5 (3) (i) the patient and the patient's spouse have a history of involuntary
6 infertility, which may be demonstrated by a history of:

7 1. if the patient and the patient's spouse are of opposite
8 sexes, intercourse of at least 2 years' duration failing to result in pregnancy; or

9 2. if the patient and the patient's spouse are of the same sex,
10 six attempts of artificial insemination over the course of 2 years failing to result in
11 pregnancy; or

12 (ii) the infertility is associated with any of the following medical
13 conditions:

14 1. endometriosis;

15 2. exposure in utero to diethylstilbestrol, commonly known
16 as DES;

17 3. blockage of, or surgical removal of, one or both fallopian
18 tubes (lateral or bilateral salpingectomy); or

19 4. abnormal male factors, including oligospermia,
20 contributing to the infertility;

21 (4) the patient has been unable to attain a successful pregnancy through a
22 less costly infertility treatment for which coverage is available under the policy or contract;
23 and

24 (5) the in vitro fertilization procedures are performed at medical facilities
25 that conform to applicable guidelines or minimum standards issued by the American
26 College of Obstetricians and Gynecologists or the American Society for Reproductive
27 Medicine.

28 (e) An entity subject to this section may limit coverage of the benefits for in vitro
29 fertilization required under this section to three in vitro fertilization attempts per live birth,
30 not to exceed a maximum lifetime benefit of \$100,000.

1 (f) An entity subject to this section is not responsible for any costs incurred by a
2 policyholder or subscriber or a dependent of a policyholder or subscriber in obtaining donor
3 sperm.

4 (g) A denial of coverage for in vitro fertilization benefits required under this
5 section by an entity subject to this section constitutes an adverse decision under Subtitle
6 10A of this title.

7 (h) This section may not be construed to require an entity subject to this section
8 to provide coverage for a treatment or a procedure that would not treat a diagnosed medical
9 condition of a patient.

10 (i) Notwithstanding any other provision of this section, if the coverage required
11 under this section conflicts with the bona fide religious beliefs and practices of a religious
12 organization, on request of the religious organization, an entity subject to this section shall
13 exclude the coverage otherwise required under this section in a policy or contract with the
14 religious organization.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
16 policies, contracts, and health benefit plans issued, delivered, renewed, or in force in the
17 State on or after July 1, 2016.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2016.